

NORTH CAROLINA GENERAL ASSEMBLY



AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION

REPORT TO THE 2019 SESSION of the 2019 GENERAL ASSEMBLY OF NORTH CAROLINA

JANUARY 16, 2019

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TRANSMITTAL LETTER

January 16, 2019

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TO THE MEMBERS OF THE 2019 REGULAR SESSION
OF THE 2019 GENERAL ASSEMBLY

Pursuant to Article 19 of Chapter 120 of the General Statutes, the **AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION**, respectfully submits the following report to the 2019 Regular Session of the 2019 General Assembly.

Sen. Brent Jackson (Co-Chair)

Rep. Mark Brody (Co-Chair)

Sen. Norman W. Sanderson (Co-Chair)

Rep. Jimmy Dixon (Co-Chair)

Sen. Andy Wells (Co-Chair)

Rep. Kyle Hall (Co-Chair)

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COMMISSION MEMBERSHIP

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2017-2018

Co-Chairs

[Rep. Mark Brody](#)

Ex Officio

[Rep. Jimmy Dixon](#)

Ex Officio

[Rep. Kyle Hall](#)

House Appointment

[Rep. Bob Steinburg](#)

Ex Officio

[Sen. Bill Cook](#)

Ex Officio

[Sen. Brent Jackson](#)

Senate Appointment

[Sen. Norman W. Sanderson](#)

Ex Officio

[Sen. Andy Wells](#)

Ex Officio

Ex Officio Members

Mr. Jimmy Gentry

Ex Officio

Mr. Boyd McLaurin

Ex Officio

Mr. Mitchell A. Peele

Ex Officio

Mr. Michael S. Regan

Ex Officio

Hon. Steven Troxler

Ex Officio

Public Members

Mr. Albert C. Beatty

Governor's Appointment

Mr. Maurice K. Berry, Jr.

Other Appointment

Mr. David L. Burns

Governor's Appointment

Ms. Donald Butler

Senate Appointment

Ms. Sue M. Gray

House Appointment

Mr. C. Howard Isley

House Appointment

Mr. Danny McConnell

Senate Appointment

Mr. Melvin M. Mitchell

Governor's Appointment

Mr. Sherwood Padgett

Senate Appointment

Ms. Alice H. Scott

House Appointment

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STATUTORY AUTHORITY

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Article 19.

Agriculture and Forestry Awareness Study Commission.

§ 120-150. Creation; appointment of members.

There is created an Agriculture and Forestry Awareness Study Commission. Members of the Commission shall be citizens of North Carolina who are interested in the vitality of the agriculture and forestry sectors of the State's economy. Members shall be as follows:

- (1) Three appointed by the Governor.
- (2) Three appointed by the President Pro Tempore of the Senate.
- (3) Three appointed by the Speaker of the House.
- (4) The chairs of the House Agriculture Committee.
- (5) The chairs of the Senate Committee on Agriculture, Environment, and Natural Resources.
- (6) The Commissioner of Agriculture or the Commissioner's designee.
- (7) A member of the Board of Agriculture designated by the chair of the Board of Agriculture.
- (8) The President of the North Carolina Farm Bureau Federation, Inc., or the President's designee.
- (9) The President of the North Carolina State Grange or the President's designee.
- (10) The Secretary of Environmental Quality or the Secretary's designee.
- (11) The President of the North Carolina Forestry Association, Inc., or the President's designee.

Members shall be appointed for two-year terms beginning October 1 of each odd-numbered year. The Chairs of the House Agriculture Committee and the Chairs of the Senate Committee on Agriculture, Environment, and Natural Resources shall serve as cochair. The President Pro Tempore of the Senate and the Speaker of the House of Representatives may each appoint an additional member of the Senate and House, respectively, to serve as cochair. If appointed, these cochairs shall be voting members of the Commission. A quorum of the Commission is nine members.

§ 120-151. Advisory Committee.

Upon proper motion and by a vote of a majority of the members present, the Commission may appoint an Advisory Committee. Members of the Advisory Committee should be from the various organizations, commodity groups, associations, and councils representing agriculture and forestry. The purpose of the Advisory Committee shall be to render technical advice and assistance to the Commission. The Advisory Committee shall consist of no more than 20 members plus a chairman who shall be appointed by the cochairmen of the Commission.

§ 120-152. Subsistence and travel expenses.

The members of the Commission who are members of the General Assembly shall receive subsistence and travel allowances at the rate set forth in G.S. 120-3.1. Members who are officials or employees of the State of North Carolina shall receive subsistence and travel allowances at the rate set forth in G.S. 138-6. All other members plus the Chairman of the

Advisory Committee shall be paid the per diem allowances at the rates set forth in G.S. 138-5. Other members of the Advisory Committee shall serve on a voluntary basis and not receive subsistence and travel expenses.

§ 120-153. Facilities and staff.

The Commission may hold its meetings in the State Legislative Building with the approval of the Legislative Services Commission. The Legislative Services Commission shall provide necessary professional and clerical assistance to the Commission.

§ 120-154. Duties.

The Commission shall bring to the attention of the General Assembly the influence of agriculture and forestry on the economy of the State, develop alternatives for increasing the public awareness of agriculture and forestry, study the present status of agriculture and forestry, identify problems limiting future growth and development of the industry, develop an awareness of the importance of science and technological development to the future of agriculture and forestry industries, and formulate plans for new State initiatives and support for agriculture and forestry and for the expansion of opportunities in these sectors.

In conducting its study the Commission may hold public hearings and meetings across the State.

The Commission shall report to the General Assembly at least one month prior to the first regular session of each General Assembly.

COMMISSION PROCEEDINGS

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The Agriculture and Forestry Awareness Study Commission met two times after the 2018 Regular Session. The following is a brief summary of the Commission's proceedings. Detailed minutes and information from each Commission meeting are available in the Legislative Library.

AGENDA

10:00 a.m. Wednesday, December 12, 2018

Legislative Office Building, Room 544
Raleigh, NC

1. Call to order
Sen. Jackson, Presiding
2. Introductory remarks by Co-Chairs
3. Funding fire protection and EMS services
Cindy Avrette, Staff Attorney, Legislative Analysis Division
Rodney Bizzell, Fiscal Analyst, Fiscal Research Division
4. Presentation on electric utility transmission planning and easement acquisition
James McLawhorn, Director, Electric Division
Dianna Downey, Staff Attorney
North Carolina Utilities Commission Public Staff
5. Committee discussion and announcements
6. Adjourn

The first meeting of the Agriculture and Forestry Study Awareness Commission was held on Wednesday, December 12, 2018 at 10:00 a.m. in Room 544 of the Legislative Office Building. Senator Brent Jackson presided.

Ms. Cindy Avrette, Staff Attorney, Legislative Analysis Division, and Mr. Rodney Bizzell, Fiscal Analyst, Fiscal Research Division, presented on how counties fund fire protection and EMS services through both general and special tax districts. The presentation also examined potential impacts of excluding certain farmland currently enrolled in a present-use value (PUV) program from fire district taxation.

The Commission discussed the "clawback" provision for farmland enrolled in PUV programs, the variety in land value among different PUV programs throughout the State, potentially normalizing PUV land values throughout the State, the frequency of woodland/rural fire calls, and the bundling of fire and EMS services.

Mr. Tim Bradley, Executive Director, NC Firefighters Association, gave public comment against reducing tax funding for local fire departments, particularly those departments located in rural areas.

Mr. James McLawhorn, Director of Electric Division, and Ms. Dianna Downey, Staff Attorney, NC Utilities Commission Public Staff, presented on electric utility transmission planning and easement acquisition.

The Commission discussed easement requirements for higher voltage lines, current requests from underlying landholders to buy back utility easements, and the current inventory of unused easements in the State.

Mr. Buz Moore, Senior Acquisition Agent, Duke Energy, gave public comment against requiring utilities to return unused utility easements to the underlying landholders.

Mr. Stuart Surles, Harnett County, gave public comment in support of requiring utilities to return unused utility easements to the underlying landholders.

AGENDA

10:00 a.m. Thursday, January 16, 2019

Room 544, Legislative Office Building,
Raleigh, NC

1. Call to order
Rep. Hall, Presiding
2. Introductory remarks by Co-Chairs
3. Approval of minutes from December meeting
4. Effects of the federal Agriculture Improvement Act of 2018 on industrial hemp
Laura Kilian, Legislative Liaison
Department of Agriculture and Consumer Services
5. Department of Revenue recommendations on present use valuation and uniformity
between counties
Tony Simpson, Director, Property Tax Division
Department of Revenue
6. Review and approval of final report
7. Committee discussion and announcements
8. Adjourn

The second meeting of the Agriculture and Forestry Study Awareness Commission was held on Thursday, January 16, 2019 at 10:00 a.m. in Room 544 of the Legislative Office Building. Representative Kyle Hall presided.

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LEGISLATIVE PROPOSALS

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GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2019

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BILL DRAFT 2019-TQ-1 [v.11]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
01/07/2019 10:03:01 AM

Short Title: Disposition of Certain Unused Easements.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE UTILITY COMPANIES TO DISPOSE OF CERTAIN UNUSED
3 EASEMENTS UNDER CERTAIN CIRCUMSTANCES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 9 of Chapter 62 of the General Statutes is amended by adding
6 a new section to read:

7 "**§ 62-193. Disposition of certain unused easements.**

8 (a) The underlying fee owner of land encumbered by any easement acquired by a utility
9 company, whether acquired by purchase or by condemnation, on which construction has not been
10 commenced by the utility company for the purpose for which the easement was acquired within
11 20 years of the date of acquisition, may file a complaint with the Commission for an order
12 requiring the utility company to terminate the easement in exchange for payment by the
13 underlying fee owner of the current fair market value of the easement.

14 (b) Upon receipt of the complaint, the Commission shall serve a copy of the complaint
15 on each utility company named in the complaint, together with an order directing that the utility
16 company file an answer to the complaint within 90 days after service.

17 (c) If the utility company agrees to terminate the easement, the utility company shall
18 submit to the Commission, within the time allowed for answer, an original plus four copies of a
19 statement of the utility company's agreement to terminate the easement.

20 (d) If the utility company does not agree that the easement should be terminated, the
21 utility company may request a determination from the Commission as to whether the easement
22 is necessary or advisable for the utility company's long-range needs for the provision of utilities
23 to serve its service area, and whether termination of the easement would be contrary to the
24 interests of the using and consuming public. The Commission may conduct a hearing on the
25 matter, which shall be conducted in accordance with Article 4 of this Chapter. Either party may
26 appeal the Commission's decision in accordance with Article 5 of this Chapter. The burden of
27 proof shall be on the utility company to show that the easement is necessary or advisable for the

1 utility company's long-range needs for the provision of utilities to serve its service area and that
2 termination of the easement would be contrary to the interests of the using and consuming public.

3 (e) If the underlying fee owner and the utility company cannot reach a mutually agreed
4 upon fair market value of the easement, whether terminated voluntarily or by order of the
5 Commission, the Commission shall make a request to the clerk of superior court in the county
6 where the easement is located for the appointment of commissioners to determine the fair market
7 value of the easement in accordance with the process set forth in G.S. 40A-48.

8 (f) If the Commission decides that the easement should not be terminated, the underlying
9 fee owner may not file a complaint with the Commission under this section regarding the same
10 easement for a period of five years from the date of the decision.

11 (g) For purposes of this section, the term "utility company" means a public utility as
12 defined in G.S. 62-3(23), a municipality providing utility services, an authority organized under
13 the North Carolina Water and Sewer Authorities Act, a sanitary district, a metropolitan water
14 district, a metropolitan sewerage district, a metropolitan water and sewerage district, a county
15 water and sewer district, or an electric or telephone membership corporation."

16 **SECTION 2.** This act becomes effective October 1, 2019, and applies to easements
17 acquired on or after that date.